IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

WP(C).No. 19186 of 2005(H)

PETITIONER:

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1. **SUJATHA K., MARAMKANDY MEETHAL, KAKKODI P.O., KOZHIKODE (PART TIME SWEEPER, ICDP SUB CENTER, KAKKODI, KOZHIKODE DISTRICT).**

2. **KUKNHIKRISHNAN K.M., KURUKKITHAZHA MEETHAL, MANDARATHOOR P.O., KOZHIKODE. (PART TIME CASUAL SWEEPER, ICDP SUB CENTER, KURUNTHODI, KOZHIKODE DISTRICT).**

3. **SANTHA KUMARI P.K., PURATHOLIKKAL, PANTHEERANKAVU P.O., KOZHIKODE. (PART TIME SWEEPER, ICDP SUB CENTER, PERUVAYAL, KOZHIKODE DIST.).**

4. **THANKAM T.P., POTTAYIKKAL, VAIDYARANGADI, KOZHIKODE. (PART TIME CASUAL SWEEPER, ICDP SUB CENTER, VAIDYARANGADI, KOZHIKODE).**

5. **BINDU T.M., CHALILPARAMB HOUSE, PAYANBRA P.O., KOZHIKODE. (PART TIME CASUAL SWEEPER, ICDP SUB CENTER, KURUVATTOOR, KOZHIKODE).**

BY ADV. SRI.DEVAN RAMACHANDRAN.

RESPONDENTS:

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1. **DISTRICT COLLECTOR, KOZHIKODE.**

2. **LIVE STOCK INSPECTOR, REPRESENTED BY ASST. PROJECT OFFICER, R.A.I.C. KOZHIKODE.**

**3. DISTRICT ANIMAL HUSBANDRY OFFICER
NEAR MALABAR CHRISTIAN COLLEGE,
KOZHIKODE.**

BY GOVERNMENT PLEADER SRI. NANDAKUMAR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/11/2007,ALONG WITH W.P.(C). NO. 26616/2007 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.19186/2005-H:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE JUDGMENT IN W.P.(C). NO. 14854/2004-R DTD. 18/06/2004.

EXT.P.2: COPY OF THE REPRESENTATION FILED BY THE PETITIONER TO THE R.2 RESPONDENT DTD. 31/07/2004.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

V. GIRI ,J.

WP(C).Nos. 19186 of 2005, 32617, 21817, 8036 and 30728 of 2006, 22822,14107,14108,14109,13828,18934, 15823,15822, 22860, 10423, 21841, 25155, 11664, 26616, 27252 and 226 of 2007

Dated this the 2nd day of November, 2007

JUDGMENT

The petitioners in all these cases are working in different offices in government departments. Common issues are posed for consideration in these writ petitions and therefore they are being disposed of by this common judgment.

2. Common issues are dealt with under one head and the individual petitions are taken up for consideration and disposed of considering the factual situation arising in each case. Part-time sweepers are treated as Part-time contingent employees and their method of appointment and conditions of service are governed by the Special rules for Kerala Part-time

Contingent Service (hereinafter referred to as `*special rules')*. Recruitment to such services is from persons who are sponsored by the Employment Exchange. Obviously, this would be against the sanctioned posts. Therefore the wages and other benefits drawn by them would be governed by the pay revision orders issued by the government from time to time.

3. But for years together, there has been another set of sweepers who are engaged in various government offices on casual basis, and sometimes on daily wages. By a government order issued in 1979, as G.O.(P)500/1979/Fin. dtd.2.6.1979, government revised the remuneration payable to Sweepers/Cleaners engaged for sweeping/cleaning areas of less than 200 sq.metres. Where the area was less than 200 sq.metres, but more than 100 sq.metres, they were entitled to a consolidated remuneration

of Rs.35/=. If the area is less than 100 sq.metres, they were entitled to a consolidated remuneration of Rs.30/=. By orders issued from time to time, the wages were revised.

4. By G.O.(P)3000/98/Fin. dtd.25.11.1998, government issued orders revising the scale of pay of Part-time Contingent employees. This was on acceptance of the recommendations of the Pay Revision Commission. Remuneration of the contingent employees has always been pegged to the sweeping area serviced by them. But as per the said order, if the sweeping area is 400 sq.metres above, but below 800 sq.metres, the rate of remuneration was revised to Rs.1500/= per month + D.A. In the case of the Part-time sweepers/Cleaners, whose area of work is below 400 sq.metres, the revised rate of remuneration was fixed at Rs.1250/- + D.A.

5. In the meanwhile, the remuneration being

paid to Sweepers/Cleaners other than the contingent staff did not demonstrate any certainty as such. Those were not on a par with the remuneration which was revised as per G.O(P) 3000/1998. Several casual/daily wage employees approached this Court. Essentially, their contention at that point of time was that they are doing the same work as contingent staff and therefore their wages must also be similar. In several judgments, this Court upheld the contentions and directed that the remuneration of the said petitioners must be on a par with that of contingent staff. In several cases, directions were issued by this Court in favour of casual/daily wage sweepers enabling them to draw wages as per the rates revised as per GO(P) 3000/1998.

6. The issue as to whether such casual sweepers or daily wage sweepers, as the case may be, should be regularized or not was really

not a matter which was considered in any of those judgments by this Court. It therefore came about that there were several persons who were continuing to serve as casual or daily wage sweepers in several departments of the government. Those persons who came to this Court sought for a direction that they should be paid wages on a par with contingent staff. They were being paid wages at different levels, as noted above and there was no uniformity. This probably was because most of those persons were in the unorganized sector. They are not included in any category and therefore there was no uniformity in the application of the conditions of service to these persons.

7. Though as per GO(P) 390/2003/Fin. dtd.17.7.2003, government issued a direction that such casual employees should be engaged only for a period of two months and disengaged

thereafter, the government itself had by a subsequent order, i.e. G.O.(P)500/2003 dated 25.9.2003, frozen government order GO(P) 390/2003. In effect, the casual sweepers/daily wage sweepers continued to serve in different departments all over the State.

8. A batch of writ petitions came to be decided by a learned judge of this Court in ***Mercy*** v ***State of Kerala*** (2004(2) KLT 848). This Court issued certain directions as contained in paragraph-11 of the said judgment, which reads as follows:

> "*Depending on the area to be swept and cleaned, Government is perfectly justified in fixing their wages and taking note of the small area in certain Government offices, the Government is also justified in fixing only a consolidated wages of Rs.600/= as it stands now in the case of those offices where the area to be swept*

> *is only below 100 sq.mts. Except in the case of below 100 sq.metres sweeping area there has to be a sanctioned post. Appropriate orders shall be passed by the Government within six months from the date of production of a copy of the judgment."*

This Court further went on to direct the State and the controlling officers to see that the Part-time sweepers, who have not approached this Court, as covered by the decision, are paid their arrears as calculated on the basis of the 1997 pay revision with effect from 1.3.1997. ***Mercy v State of Kerala*** was rendered on 18.3.2004.

9. The matter was taken up before a Division Bench of this Court. In Writ Appeal No.2140/2004 and connected cases**,** the main issue considered by the Division Bench related to the date on which the arrears as per the revised scale was to be paid in favour of the casual/daily wage sweepers.

Division Bench formulated the issue, which is considered in paragraph-15 of the judgment in W.P.(C)30927/2003 and connected cases as follows:

> *"Since there is also a grievance regarding payment of wages including arrears, there will be a direction to the State and the controlling officers to see that the petitioners in these cases and also those Part-time sweepers who have not approached the Court, but covered by this decision, are paid their arrears as calculated on the basis of the 1997 pay revision order, with effect from 1.3.1997. This shall be done within a period of three months from the date of production of a copy of judgment. It is also made clear that in the case of individual is also made clear that in the case of payment of salary even prior to the 1997 pay revision order, they shall be governed by the respective judgments. But in any case no Part-time sweeper shall be denied the*

> *benefits of 1997 pay revision orders. If any case, Part-time sweepers have been terminated based on G.O.(P) No.390/03/Fin. dtd. 17.7.2003 they shall be re-engaged forthwith and they will also be governed by this judgment".*

10. The Division Bench noticed that the sweeping area is not a matter to be determined by this Court. That may depend upon the area which is expected to be swept taking into account the requirements of the office. Determination of the sweeping area was left to the wisdom of the government as such.

11. The Division Bench ultimately went on to hold that insofar as the casual/daily wage employees who were employed prior to 6.10.2003, (which was treated as a cut off date of Mercy's case, on the basis of a circular issued by the Revenue Department) were concerned, they are

entitled to wages on a par with contingent staff. Division Bench interfered with the direction of the learned single judge in Mercy's case and went on to hold that the eligible staff will be entitled to arrears only for a period of three years prior to the date of the judgment passed in each one of those cases.

12. Taking note of the general observations made by the Division Bench, the government came to issue GO(P) 501/2005 dtd. 25.11.2005 which is intended to lay down the guidelines regarding "regularization of the existing eligible casual sweepers and appointments against future arising vacancies of sweepers/cleaners in government service".

13. I do not propose to reproduce the entire government order as such. It will suffice, if reference is made to certain crucial parts of the said order. Clause – 8 thereof provides for the

regularization of the existing casual sweepers, where the sweeping area exceeds 100 sq.metres. Creation of posts of part-time contingent employees will depend upon the sweeping area. Sweeping area is to be calculated in accordance with the guidelines given in the appendix. Mode of determination of sweeping area is mentioned therein. For the purpose of regularization of the existing casual sweepers, the measurement is to be made by the PWD officials after notice to the concerned person. If fixation of the area exceeds 100 sq.meters, and if it is found that there is no post of part-time sweeper sanctioned in the office in question, but if there is a casual sweeper being engaged, the head of the office will have to take up this matter with the government and sanctioning of the post is to be done only by the government, taking into account the guidelines regarding creation of posts of Part-time contingent

sweepers which are referred to in the remaining portion of the government order.

14. Clause-9 of the order states that *if, on re-fixation of area, it is found to be less than 100 sq.metres (requiring only a casual sweeper @ Rs.600 p.m.), and if there is a casual sweeper already working, he/she shall continue without disruption, getting only Rs.600 per month.* Clause 11 of the order, which is the subject matter of considerable debate, inter alia provides that *the guidelines in the Appendix shall also be applied to offices which already have part-time contingent sweepers. If consequent to the re-fixation of the area in such offices, in accordance with the guidelines, the sweeping area increases from below 400 sq.metres to above 400 metres, the part-time sweeper concerned shall be entitled to the higher remuneration of Rs.1500/- p.m.+ D.A., but with effect from the date of the government*

order only. If the area reduces from above 400 sq.metres to below 400 metres, the remuneration of the particular part-time sweeper shall not be reduced from Rs.1500 + D.A. The existing incumbent shall continue to get what he was getting. But the employee posted against the next vacancy should be given wages as per the rules. If, on fixation, the sweeping area reduces from above 100 sq.metres below 100 sq.metres the remuneration of the existing part-time sweeper, if he is getting Rs.1250/= per month + D.A. shall not be reduced. He shall continue to get what he was getting. The next vacancy in the post should be filled up by a casual sweeper only by paying 600/= per month.

15. Creation of the post of Part-time Contingent sweeper in newly formed offices is to be done strictly on the basis of the new guidelines in the Appendix. If the sweeping area is above

800 sq.metres, but below 900 sq.metres, a part-time contingent sweeper and a casual sweeper will also be engaged.

16. The appendix contains the guidelines of the determination of the sweeping area. Though there has been a suggestion that the appendix has not been logically laid down and that some of the areas to be swept have been excluded arbitrarily, I may straight away note, especially especially in the light of the decision of the Division Bench, that determination of the sweeping area is within the domain of the government. As to what will come within the sweeping area and what will be excluded there from are obviously not matters which should be decided by this Court. Nevertheless, I have also found on a perusal of the appendix that there is no artificial exclusion of any area, which forms an integral part of office premises, from the determination of the sweeping area to such an

extent, where the application of the guidelines would result in an absurdity. What has been laid down are guidelines and obviously the impact of the same would be different in different factual situations. But the validity of the guidelines cannot be tested by reference to an aberration in a particular case. I should also take note of the fact that though the validity of the guidelines and appendix was challenged before this Court, the challenge was not accepted by this Court as evidenced from the decision reported in **Pankajam v State of Kerala** (**2006(4) KLT short notes page 43).** Thus, the determination of the sweeping area will have to be made as per the guidelines laid down in GO(P) 501/2005. This order has been issued by the government in exercise of its general executive power. I also make it clear that variation of the guidelines contained in the appendix can be done only by another order of a

similar nature and character. I am constrained to make this observation because the learned counsel for the petitioner made reference to certain other circulars which are stated to have been issued subsequent to GO(P) 501/2005. Those circulars are not challenged in all these writ petitions as such. At any rate, I do not think it is necessary to consider the validity of such individual circulars. The sweeping area is to be determined as per the appendix to GO(P) 501/2005 and this will prevail as long as the said order prevails as such. Any circular issued either prior to or after G.O.(P) 501/2005 will be subject to the Government Order. This is not to say that the government is bereft of the power to modify the guidelines. But it an be done only by orders passed by the government, and not by circulars or inter office communications.

17. The crucial issue which is raised for the

determination of this Court is centered around clause-9 and clause 11 of GO(P) 501/05**.** Learned counsel for the petitioners submitted that the government order as such is intended to lay down the guidelines regarding the regularization of all existing eligible casual sweepers and appointments against future arising vacancies of sweepers/cleaners in government service. Clause-11 will have to be understood in the context of the revised guidelines incorporated in the appendix to the government order. The appendix therefore affords power to the government to re-determine the sweeping area in any government office notwithstanding a prior assessment as such. Such re-assessment could entail an increase in the sweeping area or reduction therein. But re-assessment is a part of the legitimate exercise that could be undertaken as per the government order with reference to the appendix. If there is an

increase in the sweeping area consequent upon the re-fixation, no dispute would arise therefrom. If on re-fixation, the sweeping area exceeds 100 sq.metres, the G.O. provides that if the issue is taken up with the head of the department, government will take an appropriate decision as regards creation of the post of a part-time contingent sweeper. The guidelines also take care of a situation where the sweeping area on re-fixation is found to exceed 400 sq.metres. Obviously none of the petitioners could harbour any grievances in the event of an upward change of the sweeping area consequent upon re-fixation as such.

18. Mr.Nandakumar learned senior government pleader submits that the term "Part-time contingent sweeper" on one hand and "casual sweeper" on the other hand are distinctly and differently used in same government order and

therefore they must be attributed their respective connotation. Mr.Nandakumar submits that the protection of pay contemplated in clause-11 of the government order in the event of a change in sweeping area on a re-fixation of the same is available only to a part-time sweeper meaning thereby that the protection of wages as such will be available only to regular part-time contingent staff working as a sweeper in any government office as such. Protection of wages as contemplated by clause 11 will not come to the aid of casual sweepers like the petitioners in these cases; such persons will be taken care of by clause-9 of this rule, wherein it is stated that if on a re-fixation of the area, it is found to be less than 100 sq.metres and if there is a casual sweeper already working, he shall continue without disruption getting only Rs.600/= per month.

19. Reference is also made to para 12 and 14 of the order to contend for the position that protection of wages under clause 11 is available only to part time contingent sweepers and not to casual sweepers like the petitioners.

20. The issue is not capable of easy resolution. Mr.Nandakumar is right when he says that the terms "part time contingent sweepers" and "casual sweepers" are distinctly and differently used in the same Government order; possibly in the same paragraph. They should therefore be construed differently. It is also necessary to reconcile clause 9 of the GO with clause 11 thereof. But in my view what should inspire this court in deciding this dispute is what was the intention of the Government in bringing forth the order. Reference to various orders which are referred to in GO(P).No.501/2005 show that all of them deal with fixation of pay of sweepers, some of them refer to part time contingent workers and some of them refer to casual sweepers. The immediate provocation was the judgment in Mercy as modified by the

Division Bench in W.A.No.1863/2004 and connected cases. The said judgment obviously deals with the claim by casual sweepers for wages on a par with what was being paid to the contingent staff. The Division Bench also dealt with the power on the part of the Government to determine the sweeping area as such. As noted above Appendix to the Government order is an integral part of the same and it is obviously within the domain of the Government to determine. What could be the sweeping area and what is beyond it. Coupled with the power to determine the sweeping area, there is also a power to refix it. The refixation could entail an increase in the sweeping area or reduction therein. If on refixation of the sweeping area, there is reduction of sweeping area, will it entail a modification of the wages of part time contingent employee who is otherwise governed by the special rules in this behalf?. A part time contingent sweeper is a regular contingent employee in the Government service and the salary and other benefits due

to such a Government servant will be governed by the orders issued by the Government from time to time accepting the recommendations of the pay revision commission. Assuming that there is a reduction of the sweeping area in any Government office consequent upon refixation, the same by itself cannot result in a change of wages or a change in the pay scale that is available to such Government servant who is in the regular service of the government. In my view the Government, while issuing GO(P).No.501/2005 did not intend to tinker with the pay scales of regular staff appointed under the special rules but intended only to regularise the remuneration being drawn by the casual sweepers who are outside the purview of the special rules as such. If the direction in Mercy, as stated above, is reflected in GO(P).No.501/2005 then it is relevant to note that Mercy straight away directed parity of wages for casual sweepers with regular contingent staff. The Government makes a distinction between the two categories in the context of the sweeping

ares serviced by these two categories of employees and in the context of the method of recruitment, that is adopted in the case of contingent staff. The Division Bench interfered with Mercy only on two grounds. The first one related to the determination of the sweeping area. Mercy explained that the sweeping area will be determined as per the Government order by laying down the criteria in this behalf in para 13 and 14 thereof. The second aspect dealt with in Mercy related to parity of wages in so far as casual sweepers are concerned and the direction to pay arrears of wages with effect from 1.3.1997. The Division Bench held that the determination of the sweeping area is within the domain of the Government and the Appendix to GO(P).No.501/2005 is a direct result of the same. Refixation of the sweeping area is possible only because the Division Bench clearly laid down that determination of the sweeping area is within the domain of the Government. Mercy was not interfered with in any other respect. Therefore taking

into account the background of the order, the subject matter of the order as such and the attendant circumstances, I am of the view that clause 11 of the GO (P).No.501/2005 in so far as it protects the wages being drawn by the part time sweepers in the event of a refixation of the sweeping area must be extended to casual sweepers also. It is so declared.

21. Having indicated the manner in which the guidelines in GO(P).No.501/2005 are to be followed, I will deal with the writ petitions one by one in view of the slight difference in the factual situation.

WP(C).No.8036/2006

The petitioners herein are Casual Sweepers working in different offices in Wayanad District. They had approached this court on earlier occasions and by Exts.P3 to P6 judgments this court directed that they should be paid wages on a par with the contingent employees. As per Exts.P10 to P12 certificates, the sweeping area is above 100 sq. meters. Subsequently, on a refixation it

was found as per Exts.P14 to P16 certificates that the sweeping area is reduced to below 100 sq. meters. In view of what is stated above and also what is held in Exts.P3 to P6 judgments the petitioners are entitled to draw wages, in accordance with clause 11 of GO(P). No.501/2005 and there shall be no reduction of wages, consequent upon the reduction in sweeping area by virtue of Exts.P14 to P16 certificates. It is made clear that I am not interfering with the correctness of Ext.P14 to P16. But such reduction in the sweeping area will not have any impact as far as the petitioners are concerned. If there is any arrears of wages due to the petitioners as per the direction contained hereinabove, the same will be disbursed to the petitioners within three months from the date of receipt of a copy of this judgment.

WP(C).No.27817/2006

The petitioners herein are casual sweepers working in different offices in Malappuram District. They were originally being paid remuneration at the rate of Rs.1250/-

plus D.A. p.m. Their wages were later reduced to Rs.600/- p.m. By Ext.P1 judgment this court declared that the petitioners are eligible to get wages in the scale of pay applicable to Part-time sweepers appointed on regular basis. I need only mention that the application of GO(P).No.501/2005 itself will not operate to dilute the effect of what has already been declared in favour of the petitioners in Ext.P1 judgment. It is so declared. If there is any arrears due to the petitioners the same shall be disbursed within two months from the date of receipt of a copy of this judgment.

WP(C).No.19186/2005

The petitioners claim to be part time casual sweepers in the Integrated Cattle Development Programme in Kozhikode District. They claim regularisation of their service and also parity of wages on the basis of GO(P).No. 3002/98/FIN dated 25.11.1998. Petitioners have filed a representation before the Government as per Ext.P2. The writ petition is disposed of directing the second

respondent to look into Ext.P2 in the light of GO(P). No.501/2005 and the observations made above. The needful shall be done within a period of three months from the date of receipt of a copy of this judgment.

WP(C).No.22822/2007

The petitioner is a Part-time Sweeper in the 4th respondent village office. He was originally drawing wages at the rate of Rs.1250/- plus DA p.m. But later from January, 2006 onwards there was reduction of wages to Rs.600 p.m. This could be consequent on the application of GO(P).No.501/2005. The petitioner had earlier approached this court in WP(C).No.27634/2002. By Ext.P1 judgment this court had directed that the petitioner should be paid regular wages with arrears. As per Exts.P4 and P5 sweeping area certificates, the sweeping area is more than 100 sq. meters. There is a claim for sanctioning of a post of Part-time contingent employee where the petitioner is presently working and the same is pending before the Government. The claim will have to

be decided as per GO(P).No.501/2005 The needful shall be done within two months from the date of receipt of a copy of this judgment. If arrears of wages to be paid to the petitioner owing to clause 11 of GO(P).No.501/2005, the same shall also be paid to him by the Controlling Officer within three months thereafter.

WP(C).No.22860 /2007

The petitioner is working as a casual sweeper in Malappuram Village Office. Her grievance is that she was originally drawing wages at the rate Rs.1250/- plus DA. But later from January,2006 onwards there was a reduction of wages to Rs.600 p.m. As per Ext.P1 judgment this court had directed that the petitioner should be paid wages in the scale of pay applicable to regular part time sweepers. That protection will be given to the petitioner. The issue regarding creation of a part time contingent employee in the Malappuram Village Office in Ernad Taluk is pending consideration. The Government shall take a decision in this regard within three months

from the date of receipt of a copy of this judgment and arrears shall be paid to the petitioner within the said period.

WP(C).No. 15822/2007

The petitioners herein are part time sweepers in the Nilambur Taluk Office. According to them, they have been in service from 1985 and 1986 respectively. They were drawing wages at the rate of Rs.1250/- plus DA p.m. This was reduced to Rs.600/- p.m. from January,2006 onwards. This could be on the basis of the application of GO(P).No.501/2005. The proposal for creation of the post of Part time contingent employee in the Nilambur Taluk Office was forwarded to the Government. Apparently, though the original sweeping area was in excess of 100 sq. meters, on refixation it is reduced to less than 100 sq. meters. In the circumstances, the petitioners are entitled to protection of wages under clause 11 of the G.O. dated 25.11.2005. They were drawing salary upto December,

2005. In the light of what has been held above, the only direction that is necessary in the present case is in relation to arrears of wages due to the petitioners. The same will be disbursed to them by the controlling officer within three months from the date of receipt of a copy of this judgment. But it is made clear that this court is not interfering with the refixation of the sweeping area in so far as the office is concerned.

WP(C).No. 15823/2007

The petitioners are casual sweepers in various offices under the control of the Tahsildar, Perinthalmanna. According to them, they have been working for the last 20 years. They were originally being paid wages on a par with the Part-time contingent sweepers. When there was a reduction of wages, they approached this court and by Exts.P1 and P2 judgment they were directed to be paid wages under the regular pay scale with arrears for the period they have worked. Apparently the reduction is on

account of the sweeping area. This court is not interfering with the sweeping area as such. But it is declared that the petitioners are entitled to protection of wages as per clause 11 of GO(P).No.501/2005. Arrears, if any, due to them in terms of the said declaration will be disbursed within three months from the date of receipt of a copy of this judgment by the controlling officer.

WP(C).No.18934 /2007

The issue in this case relates to the post of a Part time casual sweeper in the office of Veterinary Dispensary, Kolakkad. Though there was a claim for regularisation of the service of the petitioner, it is turned down by Ext.P2 on the premise that there were four other persons who were engaged as casual sweepers. Therefore, the petitioner alone cannot be regularised. The petitioner refers to the statement filed by the Government. In the statement, it is mentioned that the petitioner had been engaged from 16.7.2001 to 2.7.2007 intermittantly for large number of days whereas the others

were engaged for less than 60 days. I am of the view that one post of Part time sweeper will have to be sanctioned in the office of the Veterinary Dispensary and then the question as to who should be regularised in the said post will be decided by the Government. The Government shall reconsider the matter after notice to the petitioner and other four persons who were engaged as casual sweepers in the same office in question as mentioned in the statement. Fresh orders will be passed within three months from the date of receipt of a copy of this judgment.

WP(C).No. 32617/2007

The petitioners are casual sweepers working in different offices in Malappuram District. According to them, they have been engaged as sweepers for several years and some of them in 1986. They were originally drawing salary on a par with Part time contingent employees. This was later reduced. This court by Exts.P1 to P4 judgments directed that wages should be paid to the

petitioners on a par with Part-time contingent employees. This was being done till January 2006. Then it was reduced to 600 p.m. it seems to be on the basis of an application of GO(P).No.501/2005 and reassessment of the sweeping area.

2. In so far as reassessment of the sweeping area is concerned, I am not inclined to interfere with the decision taken by the Government in this regard. But I make it clear that the declaration granted in favour of the petitioners under Exts.P1 to Ext.P4 judgments will continue to be in force and the petitioners are entitled to the benefit of clause 11 of GO(P).No.501/2005 as mentioned in earlier part of the judgment. It is so declared. Arrears from January 2006 shall be disbursed to the petitioners within three months from the date of receipt of a copy of this judgment.

WP(C).No.226/2007

The petitioner is a casual sweeper working in the office of the Tahsildar, Tirur Taluk. According to her, she

had commenced service in 1992. She was being given wages on a par with contingent employees on the basis of Ext.P1 judgment. Thus according to her, she was getting regular scale of pay upto December, 2005 and from January 2006 onwards it was reduced to Rs.600/- p.m. This seems to be because of the refixation of the sweeping area below 100 sq. meters. In the light of the protection of wages as per clause 11 of the GO(P).No.501/2005 it is declared that the petitioner is entitled to draw wages in terms of what is declared in Ext.P1 judgment. Arrears, if any, will be disbursed by the controlling officer within three months from the date of production of a copy of this judgment.

WP(C).No.10423/2007

The petitioner is a casual sweeper who was working in the Krishi Bhavan, Kizhakkoth in Kozhikode District. According to the petitioner, he was working from 1.11.1987 and has been paid salary for Rs.600/- p.m. The sweeping area covered by the petitioner, according to

him, is 143.17 sq.meters. Learned counsel for the petitioner Sri.Kaleeswaram Raj submits that a proposal for regularising the service of the petitioner is pending before the Government as evidenced by Ext.P4. The writ petition is disposed of directing the Government to take a decision on the proposal for regularising the petitioners service as per GO(P).No.501/2005 , within a period of three months from the date of receipt of a copy of this judgment. The consequential benefits will depend upon the decision taken by the Government.

WP(C).No.13828/2007

The petitioner is a casual sweeper in Krishi Bhavan at Kattappana in Idukki District. According to him, the sweeping area serviced by him is more than 100 sq.meters. He contends that he was earlier drawing wages on a par with contingent employees on the basis of the directions in Ext.P1 judgment. According to him, from September, 2003 onwards he was paid wages at the rate of Rs.1250/- plus DA p.m. Later there was an audit

objection as evidenced by Ext.P3. Learned counsel for the petitioner submits that this is on account of wrong application of GO(P).No.501/2005. In the circumstances, the writ petition is disposed of directing the first respondent to take a decision on the audit objection after hearing the petitioner in the light of the declaration regarding clause 11 of GO(P).No.501/2005. The interim order already granted is continued until a fresh decision is taken by the first respondent.

WP(C).No.14107/2007

The petitioner is a casual sweeper in Krishi Bhavan at Vandanmedu in Idukki District. According to her, the sweeping area serviced by her is more than 100 sq.meters. She contends that she was earlier drawing wages on a par with contingent employees on the basis of the directions in Ext.P1 judgment. According to her, from January, 2004 onwards she was paid wages at the rate of Rs.1250/- plus DA p.m. Later there was an audit objection as evidenced by Ext.P3. Learned counsel for the

petitioner submits that this is on account of the wrong application of GO(P).No.501/2005. In the circumstances, the writ petition is disposed of directing the first respondent to take a decision on the audit objection after hearing the petitioner in the light of the declaration regarding clause 11 of GO(P).No.501/2005. The interim order already granted is continued until a fresh decision is taken by the first respondent.

WP(C).No.14108/2007

The petitioner is a casual sweeper in Krishi Bhavan at Kattappana in Idukki District. According to her, the sweeping area serviced by her is more than 100 sq.meters. She contends that she was earlier drawing wages on a par with contingent employees on the basis of the directions in Ext.P1 judgment. According to her, from January, 2004 onwards she was paid wages at the rate of Rs.1250/- plus DA p.m. Later there was an audit objection as evidenced by Ext.P3. Learned counsel for the

petitioner submits that this is on account of the wrong application of GO(P).No.501/2005. In the circumstances, the writ petition is disposed of directing the first respondent to take a decision on the audit objection after hearing the petitioner in the light of the declaration regarding clause 11 of GO(P).No.501/2005. The interim order already granted is continued until a fresh decision is taken by the first respondent.

WP(C).No.14109/2007

The petitioner is a casual sweeper in Krishi Bhavan at Kattappana in Idukki District. According to her, the sweeping area serviced by her is more than 100 sq.meters. She contends that she was earlier drawing wages on a par with contingent employees on the basis of the directions in Ext.P1 judgment. According to her, from January, 2004 onwards she was paid wages at the rate of Rs.1250/- plus DA p.m. Later there was an audit objection as evidenced by Ext.P2. Learned counsel for the petitioner submits that this is on account of the wrong

application of GO(P).No.501/2005. In the circumstances, the writ petition is disposed of directing the first respondent to take a decision on the audit objection after hearing the petitioner in the light of the declaration regarding clause 11 of GO(P).No.501/2005. The interim order already granted is continued until a fresh decision is taken by the first respondent.

WP(C).No.21841/2007

The petitioner is a casual sweeper in the office of the second respondent. According to him, he has been engaged as casual sweeper with effect from 1991 and the area serviced by him is more that 100 sq. meters. A proposal for creation of a post of part time contingent employee in the office of the second respondent is pending before the Government. In the circumstances, the writ petition is disposed of directing the first respondent to take a decision on the proposal for creation of a post of Part time contingent staff in the office of the second respondent in terms of GO(P).No.501/2005, within a

period of three months from the date of receipt of a copy of this judgment. The disbursal of the benefits to the petitioner will depend upon the decision taken by the Government as aforementioned.

WP(C).No.25155/2007

The petitioners claim to be casual sweepers working in different offices in various villages in Sulthan Bathery Taluk in Wayanad District. According to them, they were earlier given wages on a par with part time contingent staff as per the direction issued by this court in Exts.P3 to P5 judgments. They contend that the area serviced by them is more than 100 sq. meters and later on an application of GO(P).No.501/2005 it seems to have been brought to less than 100 sq.meters. Therefore, they apprehend reduction of wages. The petitioners challenged Ext.P10, which is a subsequent communication issued by the Government. All that is required in the present case is to declare that the petitioners are entitled to protection

of wages in the light of clause 11 of GO(P).No.501/2005 as declared by this court in the earlier portion of the judgment. Arrears, if any, due to the petitioners will be disbursed in accordance with the direction issued by the Division Bench by judgment dated 12.8.2005 in W.A.No.2140/2004 and connected cases. It is further made clear that no arrears will be paid in excess of the period mentioned by the Division Bench.

WP(C).No.26616/2007

The Petitioner is a casual sweeper, who according to her, has been working since 1989. The sweeping area serviced by her is found to be more than 100 sq.meters as per Ext.P3 certificate. Nevertheless the petitioner's claim for regularisation has not been accepted. Reference is made to Ext.P8 order in which the service of the casual sweepers in Krishi Bhavan has been regularised, who according to the petitioner, is similarly situated. With reference to Ext.P3 certificate , I find that there is no

proper consideration of the petitioner's case. In the circumstances, there will be a direction to the Government to consider the case of the petitioner in the light of GO(P). No.501/2005 and Ext.P3 certificate and take a fresh decision within three months from the date of receipt of a copy of this judgment. Arrears if any due to the petitioner consequent upon the orders to be passed by the Government in the manner aforementioned will be disbursed within three months from the date of receipt of a copy of this judgment.

WP(C).No.27251/2007

The petitioner is a casual sweeper, who according to her, has been working since 1987. The sweeping area serviced by her is found to be more than 100 sq.meters as per Exts.P3 to P5 certificates. Nevertheless the petitioner's claim for regularisation has not been accepted. Reference is made to Government Order GO(MS) No.121/07/AD dated 21.7.2007, in which the service of

the casual sweepers in Krishi Bhavan has been regularised, who according to the petitioner, is similarly situated. With reference to Exts.P3 to P5 certificates , I find that there is no proper consideration of the petitioner's case. In the circumstances, there will be a direction to the Government to consider the case of the petitioner in the light of GO(P).No.501/2005 and take a fresh decision within three months from the date of receipt of a copy of this judgment.

WP(C).No.11664/2007

The only issue involved in this case is the claim for arrears of salary raised by the petitioner at the rate of Rs.1250/- p.m. After having heard learned counsel for the petitioner and the learned Government Pleader, the writ petition is disposed of directing the first respondent to look into the said claim and disburse the arrears in relation to the period from July, 2005 to January, 2006, if the same is found to be eligible in the light of the

declaration made as per clause 11 of GO(P).No.501/2005 , within a period of three months from the date of receipt of a copy of this judgment.

WP(C).No.30728/2006

The petitioner is a casual sweeper employed in the Koovappally Village. He has been drawing wages on a par with contingent employees pursuant to Ext.P1 judgment. Ext.P1 was taken up in appeal by the State where it was confirmed subject to the modification regarding payment of arrears with effect from three years prior to the date of the judgment. Ext.P3 is issued in consequence of Ext.P1 judgment. In the circumstances, there will be a direction to the first respondent to consider the case of the petitioner and disburse the benefits as per Ext.P1 judgment within three months from the date of receipt of a copy of this judgment.

Before parting with those casess, I wish to clarify one aspect, which will have general application. In most of the

cases involving casual sweepers, there is a claim for arrears of wages. In several cases, a direction has been issued for disbursal of arrears. It is made clear that arrears of wages for casual sweepers will be governed by the directions issued by the Division Bench in W.A.1863/2004 and connected cases.

All the writ petitions are disposed of as above.

V. GIRI, JUDGE.

pmn/